

Serial No. 09/955,166

Amendment dated: January 28, 2005

Docket No. HI-0033

Response to Advisory Action dated January 14, 2005 &
the Office Action dated July 29, 2004

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-4, 6-9 and 11-27 are pending in the present application with claims 1, 6, 11, 18 and 24 having been amended by the present Amendment.

The response is substantially the same as the previous response filed on October 5, 2004, which was not entered as noted in the Advisory Action. However, this response includes the additional following comments in response to the Examiner's comments in the Advisory Action that "[a] simple search of the new limitation appears to show there is prior art which teach the new limitations (see PTO 892)." After reviewing the newly cited references, it is respectfully noted these references do not teach or suggest a service re-negotiation procedure occurring after the MSC has been notified about an initially negotiated option, after the MS, BS/BSC and MSC has entered into a busy state and during an existing call as claimed by the present invention.

For example, Noneman et al. is directed to using two inactivity time intervals along with a variable data rate to process data packets. Figures 3A-3C illustrate different packet transmission time lines. However, there is no description in Noneman et al. about the claimed re-negotiation process between the BS/BSC and MSC after an initial call has been processed. That is, Noneman et al. is similar to the background art described in the present

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specification in which the MSC is not notified about the re-negotiated process. Similar comments apply to the other two cited references. The following portion of this response is the same as the previously filed response.

In the outstanding Office Action, claims 1-4, 6-9 and 11-27 were rejected under 35 U.S.C. § 102(b) as anticipated by Spartz et al.

Applicant thanks the Examiner for discussing this application with Applicant's representative on September 9, 2004. During the discussion, the differences between the present invention and the applied art were discussed. No agreement was reached pending the Examiner's further review when a response is filed. Arguments presented during the discussion are reiterated below.

Claims 1-4, 6-9 and 11-27 stand rejected under 35 U.S.C. § 102(b) as anticipated by Spartz et al. This rejection is respectfully traversed.

Claim 1 has been amended to further recite that the service re-negotiation procedure occurs during an existing call. Independent claims 6, 11, 19 and 24 include similar features in a varying scope. Thus, according to claim 1, the method of reporting the changed service option in a mobile communication system includes a service re-negotiation procedure performed between a mobile station and a BS\BSC and which occurs after the mobile switching center has been notified about an initially negotiated service option, after the mobile station, the BS\BSC and the mobile switching center has entered into a busy state

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using the initially negotiated service option, and during an existing call. These features are illustrated in the non-limiting example of Figure 4, for example, in which the service re-negotiation procedure occurs after the busy state corresponding to an existing call. Further, as shown in Figure 4, after the re-negotiation procedure, the mobile station, the BS\BSC and the MSC enter into another busy state. In addition, paragraph [53] at page 13 indicates the re-negotiation occurs during the call process.

Thus, because of the re-negotiation procedure according to the present invention, the mobile switching center will use the most recent service option for creating billing information, for example. Therefore, if the service option has changed from a call quality identifier of a 13k voice to the 8k EVRC through the service re-negotiation procedure between the mobile station and the base/base station controller in consideration of the traffic of the base station/base station controller or the resource management during the call process, the latest negotiated service option is used to create the billing information, for example.

Note that the negotiating steps S388-391 in Figure 6 of Spartz et al. are performed between the subscriber unit 100 and selection subsystem 204 before the MSC 106 is notified about the finally negotiated service option in step S394. Once the MSC 106 is notified about the negotiated option, there is no re-negotiation procedure which occurs after the MSC 106 has been notified about the initially negotiated service option. Rather, after the MSC 106 has

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been notified about the negotiated service option in steps S388- 391, the call is set up. The negotiating performed in steps S388-391 of Spartz et al. does not occur during an existing call. Rather, the negotiating procedure occurs before the existing call.

Accordingly, it is respectfully submitted that independent claims 1, 6, 11, 18 and 24 and each of the claims depending there from are allowable.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **David A. Bilodeau**, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this,

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concurrent and future replies, including extension of time fees, to Deposit Account 16-0607

and please credit any excess fees to such deposit account.

Respectfully submitted,
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